

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

TERESA WILLIAMS-THORPE,)	
Register No. 86917,)	
)	
Plaintiff,)	
)	
v.)	Case No. 09-4144-CV-C-SOW
)	
JEFFERSON CITY POLICE DEPT., et al.,)	
)	
Defendants.)	

ORDER

On October 2, 2009, United States Magistrate Judge William A. Knox recommended dismissing plaintiff's claims alleging an insufficient and negligent investigation resulted in her being incarcerated on a probation violation for a forgery charge which has been nolle prosequied. The parties were advised they could file written exceptions to the recommendation, pursuant to 28 U.S.C. § 636(b)(1)(C).

The court has conducted a de novo review of the record, including the exceptions filed by plaintiff on November 3, 2009. The issues raised in plaintiff's exceptions were adequately addressed in the report and recommendation. The court is persuaded that the recommendation of the Magistrate Judge is correct and should be adopted.

The court notes that the investigative report indicates defendant Wolters did follow up and contact the other Williams identified during the investigation, but determined, based on the facts, that plaintiff's story identifying the other Williams was not believable. At most, defendant's actions could be said to be negligent, which does not support a claim under 42 U.S.C. § 1983. See Clemmons v. Armontrout, 477 F.3d 962, 966 (8th Cir. 2007) (even allegations of gross negligence

fail to establish constitutional violation; only reckless or intentional failure to investigate other leads offends a prisoner's due process rights).

Inmates who file an appeal with the United States Court of Appeals for the Eighth Circuit are required to pay the full \$455.00 appellate filing fee, regardless of the outcome of the appeal. Henderson v. Norris, 129 F.3d 481, 484 (8th Cir. 1997). The filing of a notice of appeal is considered a consent by the inmate to allow prison officials to deduct an initial partial appellate filing fee and later installments from the prisoner's account.

IT IS, THEREFORE, ORDERED that [7] the Report and Recommendation of October 2, 2009, is adopted. It is further

ORDERED that plaintiff's claims are dismissed, pursuant to 28 U.S.C. § 1915A, for failure to state a claim for which relief can be granted. It is further

ORDERED that [10] plaintiff's motion for reconsideration is denied.

/s/ Scott O. Wright

SCOTT O. WRIGHT

Senior United States District Judge

DATED: November 20, 2009